



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, FEBRUARY 20, 2024

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, February 20, 2024 in the Memorial Room.

Members Present:

- Robert Best (Chair)
- Lynn Christensen (Vice Chair)
- Jaimie von Schoen
- Kevin Peters
- Haleem Mediouni
- Maureen Tracey – Alternate
- Nelson Disco – Alternate

Members Absent:

- Town Councilor Barbara Healey (Ex-Officio)
- Mark Williams – Alternate

Staff Present:

- Colleen Olsen, Assistant Planner

1. Call to Order

Chair Robert Best called the meeting to order at 6:30 p.m. and led everyone in the Pledge of Allegiance. He then seated Alternate Nelson Disco for the currently-vacant member seat.

2. Consent Agenda

- a. Extension Request: Patriots Car Wash Site Plan (Case #PB 2022-40)
- b. Extension Request: John Flatley Company Commerce Park Access Road Site Plan (Case # PB 2021-29)

The Board voted 6-0-0 to approve the Consent Agenda, on a motion made by Lynn Christensen and seconded by Jaimie von Schoen.

- 3. Keith Curran (applicant) and Gleason Co. LLC (owners)** – Review for acceptance and final approval of a site plan to construct a 7,650 s.f. manufacturing building with associated office space & other associated site improvements. The parcel is located at 63 Turbine Way in the I-1 (Industrial), Aquifer Conservation, Elderly Housing Overlay, and Town Center Overlay Districts. Tax Map 5D-1, Lot 5-1. Case #PB2024-02. ***This item is continued from the January 16 and February 6, 2024 Planning Board meetings.***

Ms. Olsen prefaced the application by stating that the applicant had previously come before the Board for a conceptual meeting to discuss the proposal. She noted that the building was to be 7,650 square feet in size and will have associated site improvements.

Eli Leino, Bernstein Shur (attorney), and Keith Curran, Bohler Engineering, presented the application. Mr. Curran displayed the existing conditions and explained that the land had previously been subdivided. The site was previously developed and there are existing concrete pads on site. There is also existing water and sewer on site and the applicant is looking to connect to these services. Mr. Curran clarified that the conceptual plans showed the building was 7,650 square feet as Ms. Olsen had stated, however, it has since been enlarged and will be 8,500 square feet. There will be 6,000 square feet of warehouse and industrial space and 2,500 square feet of office space. They are proposing 9 parking spaces and are seeking a waiver to allow this number. Parking will be located at the front of the building. He explained that there is an existing drive that will be used to access the site and a gate with a Knox Box will be installed at this entrance.

Much of the site will remain untouched, with a slight decrease to the impervious area. They also provided truck turning plans to show the site can handle the size of these larger vehicles. He then briefly showed the building, lights, and impervious surfaces on a plan sheet with more details. He noted that they had met with the Conservation Commission and received comments which the applicant had addressed. He showed a different view of the site and re-emphasized that the main changes will be the addition of the building and parking spaces while most of the site will remain untouched. Mr. Curran explained that the property is within the shoreland protection area, so they will need a permit from the New Hampshire Department of Environmental Services (NHDES). They plan to submit the shoreland permit after they have gone through the Planning Board process. The project will disturb less than an acre of land and they are not proposing any long term stormwater treatments, however, they will have stormwater treatment during construction, which is notated on the plan set they submitted for review.

He then showed the erosion control plan and noted there is only one site light proposed. He continued on to review existing water and sewer services on site as well as the existing power lines. They plan to connect to the existing services, including a domestic and fire protection water line.

Chair Best asked Mr. Curran to speak to the five waiver requests submitted. Mr. Curran said two waivers are for landscaping: one for the parking area landscaping and one for the landscape plan requirement itself. This property is tucked away and currently has no landscaping. They are only looking to place a building on top of what is already a concrete slab. There is also a waiver for the minimum required number of parking spaces. He noted the proposal includes 9 spaces whereas 17 are required. Mr. Curran noted that there will never be more than 9 employees on site and there is no retail component so they are seeking to have fewer parking spaces on site. The fourth waiver is in regards to calling out trees larger than 15 inches in diameter on the existing conditions survey. There will not be any tree removal on site. The last request is to waive the requirement to provide a drainage analysis. The project will disturb less than an acre of land and no impervious surface(s) will be added.

Chair Best expressed concern about the drainage analysis waiver. He wasn't sure the site had previously ever been engineered. He also wasn't sure if the concrete slabs on site were engineered to comply with the current stormwater management regulations. Mr. Curran

explained they are following the existing drainage pattern and will not be changing any grading. Mr. Best clarified that at one point changes were made. He wasn't sure there were regulations at the time when the concrete slabs were originally placed and this concrete may have changed the effects of stormwater on site. He said using these existing surfaces as the starting point for current calculations was what concerned him. Mr. Curran said they are not adding any impervious surfaces and will not be creating any adverse effect to stormwater based on what's there now. There is currently pavement there that sheets off and there is a buffer between the developed portion of the site and the Merrimack River. These buffers will be maintained and actually act as a natural stormwater treatment system. Discussion regarding stormwater continued touching on buffer details and what the Planning Board was looking for. Chair Best said he felt it would be prudent to develop a stormwater plan that could be peer reviewed to ensure pollutants weren't running off into the Merrimack River. Mr. Curran stated Fuss & O'Neill had completed a peer review and he did not recall seeing any concerns from them regarding stormwater. Chair Best said they wouldn't have reviewed a stormwater report if it wasn't provided. Mr. Curran responded they hadn't asked for anything additional to what the materials the applicant provided for peer review. Chair Best clarified that Fuss & O'Neill does not usually comment on waiver requests.

Mr. Curran added that he felt this would be a hardship that wasn't necessary for the site. He had numerous discussion with NHDES, their concern was that the project not cause any disturbance by increasing impervious surface area. Mr. Leino asked the Planning Board, and Mr. Curran, if there was any indication showing there needed to be any greater defense of the shoreland buffer. Chair Best said his concern was not of any greater defense, but that regulations were being met. An un-engineered site near the River with a lot of impervious surface creating sheet run-off is an indication that more research may need to be done. He wasn't sure there were pollution concerns stemming from specific sites but said pollution in the Merrimack River was well documented. He feels this is a chance to set things right going forward.

Vice Chair Christensen felt that because drainage on site hadn't been looked at for many years, it should be studied now. She noted that just because these kinds of requirements were not in place when the site was originally developed doesn't mean they shouldn't look at them now. Chair Best said he thinks all of the other waivers were easy to consider but he didn't feel he had enough information to persuade him to grant the stormwater waiver. Mr. Disco said he agreed with Chair Best and Vice Chair Christensen, adding that he thought NHDES would expect a stormwater report since they were encroaching on the shoreland. Mr. Curran said they didn't need an Alteration of Terrain permit because the project didn't meet that threshold. They only had to go through NHDES because of the site's proximity to the Merrimack River (within 250 feet of the shoreland, rather than 50 feet). He explained that NHDES didn't ask for a stormwater report unless impervious surface area would be increased. Chair Best said this was a good point, but he felt since the State wasn't looking that it was important for the Planning Board to do their due diligence.

Mr. Disco brought up concerns about the landscaping from the point of view of individuals traveling the Merrimack River. He stated the applicant may want to include some landscaping to give it a better visual aesthetic. Vice Chair Christensen said there is a large buffer of trees between the site and the River.

Chair Best explained that if one of the five waivers were not granted, this would deem the application incomplete. He asked if Mr. Curran could give the Board any reason to grant the stormwater waiver. Mr. Curran said his request was that the waiver be granted, if it were not he would provide a stormwater report at the next meeting. Chair Best said it would need to be peer reviewed which would take up to ten days so the next meeting may need to be pushed a little bit

The Board took a 5 minute recess at 7:00 p.m. to allow the engineer and applicant to discuss future plans, and tabled Item 3 until later in the meeting since the applicant's discussion had not yet concluded after 5 minutes.

- 4. Colt Refining Inc. (applicant) and King Herrick, LLC and Evan Realty, LLC (owners)** – Review for consideration of an amendment of a conditionally approved site plan for a 97,600 s.f. light industrial facility and associated site improvements to split construction of the site into two phases. Phase 1 is proposed to consist of all site improvements and 65,282 s.f. of the proposed building. Phase 2 is proposed to consist of the remaining 31,918 s.f. of the proposed building. The parcels are located at 12A Star Drive, and unnumbered parcels off Herrick Street and King Street in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-1, Lots 2-1 & 20-1 and Tax Map 3D-2, Lot 20-1. Case #PB2024-05.

The Board took up agenda item 4 while the applicant for agenda item 3 took a short recess.

Jason Hill, TF Moran, presented the application. Mr. Hill said they are seeking an amendment to the conditionally approved site plan for this project. The applicant would like to break the project into two phases. They are proposing to construct 65,282 square feet of building in phase 1 and they are looking for a five-year extension for phase 2 to build out the remaining 31,918 square feet. They are not proposing to change any of the architecture, though the building entrances along the Northern façade of the building have been slightly changed. The proposal is to construct all infrastructure in phase 1. This would include the parking area, driveways, and all site utilities. The loading dock may be omitted in phase 1 because the drainage would need to be completed before this was constructed. Chair Best asked if there would be a concrete pad under the 31,918 square foot portion of the building. Mr. Hill said no, it would just be prepped and sub-graded.

Mr. Hill stated that the loading area would be concrete and the section that is associated with phase two would be asphalt. He added that once phase two is built, the loading area will be switched to concrete like in phase one. Chair Best asked if that area for phase two was currently proposed as concrete or asphalt. Mr. Hill responded it's proposed to be concrete, as typical for a truck loading area. Mr. Hill added that the sidewalk, parking areas, and entryways would all be constructed and the concrete would be placed during phase 1. The only alternative he was proposing was that the phase 2 loading area may not be concrete. Instead it may be a binder course of pavement since there won't be heavy truck traffic to the phase 2 portion of the building. Vice Chair Christensen asked about the generator and trash compactor pads. Mr. Hill said they could be placed in that location in anticipation of the building being expanded within five years. He was just trying to reserve the right for the applicant to place a binder course of asphalt in that area and then place the loading pad once phase 2 of the building has been constructed.

Chair Best asked what the open space would be before phase 2 of the building was constructed. Mr. Hill said it would be gravel structural fill for the future foundation and the spot where the building will be constructed will be open space. Chair Best asked how the gravel would be

retained. He said since there are loading docks there which would lead to a four-foot difference in elevation at the edge of the building. Mr. Hill said there would be a grade transition right off the edge. Grading details would be depicted on the final plan.

Lynn Christensen left the meeting at 7:20 p.m. Chair Best sat Maureen Tracey in Lynn Christensen's place.

Mr. Disco commented that a plan should be submitted detailing the work to be completed in each phase, including any changes to be made to the concrete pad, parking, and landscaping. He said that as Chair Best had noted before, phasing plans are not always completed as intended and may get revised or have their approval expire before completion. Chair Best said he thinks Mr. Disco's request would be a condition of approval at a minimum, but it may be something the Board wants to see before voting. Mr. Hill responded that everything would be constructed. Whether or not the material used in the loading dock area of phase 2 portion was gravel or concrete was not relevant to the function of the drainage system. Gravel would be placed under phase 2 of the building and most likely be grassed over in the interim.

Chair Best said he understood, but that it should be detailed on the plan to account for any potential changes over time. Mr. Hill explained he had discussed the project with Robert Price, Director of Community Development. His understanding was that those finer details would be handled through conditions of approval, if the project got to that point, and that is why he had not submitted those details. Chair Best said this was a fair suggestion and that the Board may want to have phase 1 depicted on a separate sheet as a condition of approval.

Mr. Hill said they are committed to providing those details and going through any required review processes. Chair Best explained it was helpful to have these details to make sure things such as grading were correct across the site. Mr. Hill said some of these things may need to be addressed during construction. For example, he said if they decided to build a smaller building during construction they wouldn't be vested the five years but would handle those details with the Town during the construction phase. The applicant could build a smaller building and as build it by right because they have conditional approval. Chair Best said he wasn't sure he agreed that a smaller building could be constructed with the approval they have. They have to build what was proposed to the Board on the site plan. For changes such as the size of the building they would need to get approval from the Board. He was ok with the details being laid out as conditions of approval, but wanted to make sure grading and other site changes were thought through and had solutions.

Mr. Mediouni asked if there was any concern with the lighting not being on the far side of the building. Chair Best said normally lighting is intended for the parking areas for safety, but there isn't parking on that side of the building. He said it faces the railroad so there wouldn't be any reason to add lighting in that direction. Chair Best asked if there was any wall pack lighting on that side of the building. Mr. Hill responded that there were three wall packs. Chair Best said there were also two to three lights in the parking area. He said there would need to at least be temporary lighting in order to comply with lighting standards. Until phase 2 is constructed, they will be missing two light fixtures to cover the last half dozen parking spaces. Mr. Hill said this would either be non-lighted conditions or they would come up with temporary lighting. Chair Best said a non-lit condition probably wouldn't comply with site plan regulations. Mr. Hill said this should be easy to address with a pole fixture or something similar. Chair Best said if the

proposal is as presented without phase 2 being constructed, then the parking lot needs to be lit per plan even if it's on a temporary basis.

The Board's consensus was that they would like to see phase 1 separated out with more details rather than have this be a condition of approval. Ms. Tracey said she would like to see it, but also felt it could be done as a condition of approval with one plan showing phase 1 and one showing phase 2. Chair Best asked how quickly a new plan could be drawn up. Mr. Hill said he thinks he could have this ready for the April 2, 2024 meeting. Ms. Tracey asked for clarification about why they couldn't give a conditional of approval with the expectation that the separate plans be submitted back to the Board. Chair Best explained if a conditional approval was granted, plans would be submitted to Community Development. The Board would have already taken a vote at that point meaning they would not receive any additional project information.

Chair Best asked if Mr. Hill had any more questions. Mr. Hill responded he would resubmit a plan highlighting phase 1 and any relevant details. Chair Best said there were issues regarding fire apparatus being able access to the site which he believes were dealt with in the project's first review. He asked if they were any other outstanding items. Mr. Hill said the Fire Department asked for a plan showing the Herrick Street driveway and were looking for the turning radius to be softened slightly. He said he is also setting up a meeting with the Town Council to address the easement on site which will be extinguished.

The Board voted 6-0-0 to continue the application's public hearing to April 2, 2024 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Haleem Mediouni and seconded by Nelson Disco.

3. **Keith Curran (applicant) and Gleason Co. LLC (owners)** – Review for acceptance and final approval of a site plan to construct a 7,650 s.f. manufacturing building with associated office space & other associated site improvements. The parcel is located at 63 Turbine Way in the I-1 (Industrial), Aquifer Conservation, Elderly Housing Overlay, and Town Center Overlay Districts. Tax Map 5D-1, Lot 5-1. Case #PB2024-02. ***This item is continued from the January 16 and February 6, 2024 Planning Board meetings.***

The Board took up item 3 again.

Mr. Curran said they are fine with continuing the item without finding the application complete so that a drainage analysis can be completed. He asked how long it takes for materials they submit to Community Development to be sent to Fuss & O'Neill for peer review. Ms. Olsen gave an overview of the process noting that after the applicant can expect peer review comments back within 10 days after they have paid the estimated escrow funds Fuss & O'Neill has requested. She then shared a few upcoming Planning Board meeting deadlines.

The Board voted 6-0-0 to continue the application's acceptance and public hearing to April 2, 2024 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Kevin Peters and seconded by Jaimie von Schoen.

5. **Planning & Zoning Administrator's Report & Discussion/possible action regarding other items of concern**

Ms. Olsen gave a reminder to read through the 2023-2024 edition NH Planning and Land Use Regulations handbooks that were had been left for Board members.

6. Approval of Minutes — February 6, 2024

The Board voted 5-0-1 to approve the minutes of February 6, 2024, as drafted, on a motion made by Nelson Disco and seconded by Jaimie von Schoen. Kevin Peters abstained.

7. Adjourn

The Board voted 6-0-0 to adjourn at 7:40 p.m., on a motion made by Haleem Mediouni and seconded by Nelson Disco.